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Application No.: 10/084,602

Docket No.: P02917US7

REMARKS

Currently pending in this application are claims 25-50, 52-60 and 62-77. Claims 1-24 were canceled in a prior amendment and claims 51, 61 and 78 have been canceled in this amendment.

Claim 32 has been amended to refer to a solvent instead of a diluent and to depend from claim 25.

Claim 34 has been amended to delete reference to castor oil.

Claim 38 has been amended to refer to a solvent instead of a diluent and to depend from claim 34.

Claim 49 has been amended to refer to a solvent instead of a diluent and to depend from claim 43.

Claim 52 has been amended to change addition to additive, correcting an obvious typographical error.

Claim 59 has been amended to refer to a solvent instead of a diluent and to depend from claim 52.

Claim 62 has been amended to change addition to additive, correcting an obvious typographical error and to delete reference to castor oil.

Claim 66 has been amended to refer to a solvent instead of a diluent and to depend from claim 62.

Claim 70 has been amended to change addition to additive, correcting an obvious typographical error.

Claim 76 has been amended to refer to a solvent instead of a diluent.

The examiner has provisionally rejected the pending claims under the judicially created doctrine of obvious-type double patenting over the pending claims in applications

10/084,236, 10/084,579, 10/084,601, 10/084,833, 10/084,237 and 10/084,831.

Accompanying this amendment is a terminal disclaimer limiting the term of any patent that may issue from this application to the term of the first to expire of any patent that may issue from the cited applications. The filing of the terminal disclaimer renders the rejection moot.

The examiner has rejected claims 32, 38, 49, 59, 66 and 76 under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement. Specifically the examiner noted that the specification did not support defining certain compounds recited in the claims as “diluent” when the specification defined them as solvents. The claims have been amended to define the compounds as solvents and to change their dependency to the preceding independent claim.

The examiner next rejected claims 28, 45, 46, 51, 55, 56, 61, 62, 70, 72, 73 and 78 under 35 U.S.C. §112 as indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

The examiner rejected claims 28, 45, 55, and 72 on the grounds that the examiner did not see the distinction between the plant oil extracts derived from grain and the vegetable and nut plant oils. The examiner stated the opinion that vegetables and nuts are also grains. Applicants respectfully traverse this rejection. As defined by Webster’s, a grain is a seed of fruit from a cereal or grass. Merriam-Webster’s Collegiate Dictionary, p. 543 (11th Ed. 2003) (attached). A vegetable on the other hand is a herbaceous plant and a nut is a hard shell dry fruit or seed. Id at 853, 1386. While all of these are plants, they are different varieties and the differences in the oil extracts and oils would be apparent to one skilled in the art. In addition, plant oil extracts are generally obtained from chlorophyll containing parts of the plant (see, e.g. paragraphs 59 and 60), whereas vegetable oils are generally extracted from the seed, nut or fruit (see, e.g., paragraphs 75 and 76). Thus, applicant respectfully submits that the two groups of materials are distinct the claims are not indefinite.

The examiner rejected claims 46 and 51 as substantial duplicates. Claim 51 has been canceled rendering the rejection moot.

The examiner rejected claims 52, 62 and 70 noting that the term “addition” should read “additive.” The claims have been amended to change the term “addition” to “additive”.

The examiner rejected claims 56 and 61 as substantial duplicates. Claim 61 has been canceled rendering the rejection moot.

The examiner rejected claims 73 and 78 as substantial duplicates. Claim 78 has been canceled rendering the rejection moot.

The examiner has rejected claims 34, 37-40, 62 and 65-68 under 35 U.S.C. §102(b) as anticipated by U.S. Patent 5,862,369 to Jordan. The examiner noted that Jordan teaches a fuel composition that contains beta-carotene (carotenoid), chlorophyll (hydrophobic plant extract) and ethoxylated castor oil (thermal stabilizer) as well as cetane improvers. The composition may be diluted with various solvents including gasoline, toluene, diesel fuel and alcohols. Applicants respectfully submit that the claims as amended are not anticipated by Jordan.

As noted above, the Markush group in claims 34 and 62 that define the thermal stabilizer does not include castor oil. None of the other oils recited in the claims are taught or recited in Jordan. Thus Jordan can not anticipate the claims. Claims 37-40 depend from claim 34 and claims 65-68 depend from claim 62. Since Jordan does not anticipate the independent claims it can not anticipate the dependent claims.


CONCLUSIONS

Applicant submits that the pending claims are free of the art and are in condition for allowance.

Applicant believes there is no fee due with this response. However, if fees are due, please charge our Deposit Account No. 06-2375, under Order No. P02917US7 from which the undersigned is authorized to draw.

Dated: August 12, 2004

Respectfully submitted,

By 

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Application No.: 10/084,602

Docket No.: P02917US7

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Merriam- Webster's Collegiate[®] Dictionary

ELEVENTH
EDITION



Merriam-Webster, Incorporated
Springfield, Massachusetts, U.S.A.

ʌ| about ʔ| kitten, F table lə| further lə| ash ʌ| ace ʌ| mop, mar
 ʌ| out ʌ| chin ʌ| bet ʌ| easy lə| see ʌ| hit ʌ| ace ʌ| job
 ʌ| sing ʌ| go ʌ| law ʌ| boy ʌ| thin ʌ| the ʌ| lost ʌ| foot
 ʌ| yet ʌ| vision, beige ʌ|, ʌ|, ʌ|, ʌ| see Guide to Pronunciation

ve-da-lia \vī-dāl-yā n [NL, genus name] (1889): an Australian ladybug (*Rodolia cardinalis*) introduced to many countries to control scale insects — called also *vedalla beetle*

Ve-dān-tā \vā-dān-tā, vō-, -dān- n [Skt *Vedānta*, lit., end of the Veda, fr. *Veda* + *anta*-end; akin to OB *ende* end] (1788): an orthodox system of Hindu philosophy developing esp. in a qualified monism the speculations of the Upanishads on ultimate reality and the liberation of the soul — **Ve-dān-tism** \vā-dān-tizm, -dān- n — **Ve-dān-tist** \vā-dān-tist, -dān- n

Ve-dān-tio \vā-dān-tik, -dān- adj (1882): 1: of or relating to the Vedānta philosophy 2: **VEDIC**

Ved-da or **Ved-dah** \vō-dā n [Sinhalese *vedda* hunter] (1681): a member of an aboriginal people of Sri Lanka

Ved-doid \vō-dōid n (1928): a member of a race of southern Asia traditionally classified by such physical features as wavy to curly hair, chocolate-brown skin color, and slender body build — **Ved-doid** adj

ve-dette or **vi-dette** \vī-det n [Fr. *le vedette*, alter. of *veletta* prob. fr. Sp *veta* watch, fr. *velar* to keep watch, fr. L *vellare* to wake, watch, fr. *vigil* awake — more at *vigil*] (ca. 1611): a mounted sentinel stationed in advance of pickets

Ve-dic \vā-dik adj (1848): of or relating to the Vedas, the language in which they are written, or Hindu history and culture between 1500 B.C. and 500 B.C.

veg \vō n (ca. 1883): 1: something shaped like the letter V 2: the letter v

veg-gay \vō-jā n [video jockey] (ca. 1981): an announcer of a program (as on television) that features music videos

veena var of **VINA**

veep \vōp n [fr. v. p. (abbr. for *vice president*)] (1949): **VICE PRESIDENT**

veer \vīr n [ME *veren*, of LG or D origin; akin to MD *Werēn* to slacken, MLG *vrēn*] (15c): to let out (as a rope)

veer v [ME *veren*, fr. MF *vrer*, fr. OF, to throw with a twisting motion, fr. VL *vrare*, alter. of L *vibrare* to wave, propel suddenly — more at *VIBRATE*] (15c): 1: to change direction or course (the economy ~ed sharply downward) 2: of the wind: to shift in a clockwise direction — compare **BACK** 3: to wear ship ~ w: to direct to a different course; **specif.**: **WEAR** 7 *syn* see **SWERVE** — **veer-ly** \vī-jē, -lē, -lē, -lē adv

veer n (ca. 1611): a change in course or direction (a ~ to the right)

vee-ry \vī-rē n, pl *veeries* [prob. imit.] (1838): an American thrush (*Catharus fuscescens*) common in the eastern U.S.

veg \vō n, pl *vegs* (1918) *chiefly Brit*: **VEGETABLE**

Ve-ga \vō-gā, -vā- n [NL, fr. Ar. (*al-Nasr*) *al-Wāq*, lit., the falling (vulture)] (ca. 1638): the brightest star in the constellation Lyra

veg-an \vō-gən also *vā-* also *vō-jən* or *-jan* n [by contr. fr. *vegetarian*] (1944): a strict vegetarian who consumes no animal food or dairy products; also: one who abstains from using animal products (as leather) — **veg-an** adj — **veg-an-ism** \vō-gən-izm, -vā-g-, -vō-jā- n

veg-e-ta-ble \vō-jē-tā-bəl, -vō-jā- adj [ME, fr. ML *vegetabilis* vegetative, fr. *vegetare* to grow, fr. L to animate, fr. *vegetus* lively, fr. *vegere* to enliven — more at **WAKE**] (15c): 1: of, relating to, constituting, or growing like plants 2: consisting of plants: **VEGETATIONAL** 2: made from, obtained from, or containing plants or plant products (~ soup) (~ fat) 3: resembling or suggesting a plant (as in inertness or passivity)

vegetable n (15c): 1: **PLANT** 1b 2: a usu. herbaceous plant (as the cabbage, bean, or potato) grown for an edible part that is usu. eaten as a meal; also: such an edible part 3: a person whose mental and physical functioning is severely impaired and esp. one who requires supportive measures (as mechanical ventilation) to survive

vegetable ivory n (1842): 1: the hard white opaque endosperm of the ivory nut that takes a high polish and is used as a substitute for ivory 2: **IVORY NUT**

vegetable marrow n (ca. 1816) *chiefly Brit*: any of various smooth-skinned elongated summer squashes with creamy-white to deep green skins

vegetable oil n (1765): an oil of plant origin; esp.: a fatty oil from seeds or fruits

vegetable oyster n (ca. 1818): **SALISIFY**

vegetable pear n (1887): **CHAYOTE**

vegetable wax n (1815): a wax of plant origin secreted commonly in thin flakes by the walls of epidermal cells

veg-e-ta-ble \vō-jē-tā-bəl, -vō-jā- adj or adv (1651): in the manner of or like a vegetable

veg-e-tal \vō-jē-tāl adj [ML *vegetare* to grow] (15c): 1: **VEGETABLE** 2: **VEGETATIVE** 3: of or relating to the vegetal pole of an egg or to that part of an egg from which the endoderm normally develops (~ blastomeres)

vegetal pole n (1896): the point on the surface of an egg that is diametrically opposite to the animal pole and usu. marks the center of the protoplasm containing more yolk — see **BLASTULA** illustration

veg-e-tar-i-an \vō-jē-tā-rē-shən n [vegetable + *-arian*] (1839): 1: one who believes in or practices vegetarianism 2: **HERBIVORE**

vegetarian adj (1849): 1: of or relating to vegetarians 2: consisting wholly of vegetables, fruits, grains, nuts, and sometimes eggs or dairy products (a ~ diet)

veg-e-tar-i-an-ism \vō-jē-tā-rē-shən-izm n (ca. 1851): the theory or practice of living on a vegetarian diet

veg-e-tate \vō-jē-tāt v [ML *vegetatus*, pp. of *vegetare* to grow] (1605): 1: to grow in the manner of a plant; also: to grow exuberantly or with proliferation of fleshy or warty outgrowths 2: to produce vegetation 3: to lead a passive existence without exertion of body or mind ~ vt: to establish vegetation in or on

veg-e-ta-tion \vō-jē-tā-shən n (1564): 1: the act or process of vegetating 2: inert existence 3: plant life or total plant cover (as of an area) 4: an abnormal growth upon a body part (fibros ~ on the mitral valve) — **veg-e-ta-tion-al** \vō-jē-tā-shən-əl, -shən-əl adj

veg-e-ta-tive \vō-jē-tā-tiv adj (14c): 1: (1) growing or having the power of growing (2): of, relating to, or engaged in nutritive and growth functions as contrasted with reproductive functions (a ~ nucleus) 2: promoting plant growth (the ~ properties of soil) 3: of, relating to, or involving propagation by nonsexual processes or methods 2: relating to, composed of, or suggesting vegetation 3: of or

relating to the division of nature comprising the plant kingdom 4: **AUTONOMIC** 1 b: characterized by, resulting from, or being a state of severe mental impairment in which only involuntary bodily functions are sustained 5: **VEGETABLE** 3 — **veg-e-ta-tive-ly** adv — **veg-e-ta-tive-ness** n

ve-ge-tē \vō-jē-tē adj [L *vegetus* — more at **VEGETABLE**] (1639) *archaic*: **LIVELY, HEALTHY**

veg-gie also **veg-ge** \vō-jē n [by shortening & alter.] (1955): 1: **VEGETABLE** 2: slang: **VEGETARIAN**

veggie burger n (1972): a patty chiefly of vegetable-derived protein used as a meat substitute; also: a sandwich containing such a patty

veg out \vō-jē v *vegged out*; **veg-ging out** [short for *vegetate*] (1980): to spend time idly or passively

ve-he-mence \vō-mən(t)s n (15c): the quality or state of being vehement: **INTENSITY**

ve-he-ment \vō-mənt adj [ME, fr. MF, fr. L *vehement*, *vehemens*, *vehemens*] (15c): marked by forceful energy: **POWERFUL** (a ~ wind); as a: intensely emotional: **IMPASSIONED, FERVID** (~ patriotism) b: (1) deeply felt (a ~ suspicion) (2): forcibly expressed (~ denunciations) c: bitterly antagonistic (a ~ debate) — **ve-he-ment-ly** adv

ve-hi-cle \vō-hī-kəl also *vō-hī-kəl* n [F *véhicule*, fr. L *vehiculum* carriage, conveyance, fr. *vehere* to carry — more at **WAY**] (1612): 1: a: an inert medium (as a syrup) in which a medicinally active agent is administered b: any of various media acting usu. as solvents, carriers, or binders for active ingredients or pigments 2: a: an agent of transmission: **CARRIER** 3: a medium through which something is expressed, achieved, or displayed (an investment ~); esp.: a work created esp. to display the talents of a particular performer 4: a means of carrying or transporting something (planes, trains, and other ~s); as a: **MOTOR VEHICLE** b: a place of mechanized equipment

ve-hi-cu-lar \vō-hī-kū-lār adj (1616): 1: of, relating to, or designed for vehicles and esp. motor vehicles 2: transported by vehicle c: caused by or resulting from the operation of a vehicle (~ locomotion) 2: serving as a vehicle

V-6 \vō-6 n (1930): an internal combustion engine having two banks of four cylinders each with the banks at an angle to each other; *specif.*: an automobile having such an engine

vell \vāl n [ME, fr. AF *vell*, *vell*, fr. L *vella*, pl. of *velum* sail, awning, curtain] (13c): 1: a length of cloth worn by women as a covering for the head and shoulders and often esp. in Eastern countries for the face; *specif.*: the outer covering of a nun's headress 2: a length of veiling or netting worn over the head or face or attached for protection or ornament to a hat or headress (a ~ bridal ~) 3: any of various liturgical cloths; esp.: a cloth used to cover the chalice 2: the life of a nun — often used in the phrase *take the veil* 3: a concealing curtain or cover of cloth 4: something that resembles a veil (a ~ of stars); esp.: something that hides or obscures like a veil (lift the ~ of secrecy) 5: a covering body part or membrane as a: **VELUM** b: **CAUL**

veil v (14c): to cover, provide, obscure, or conceal with or as if with a veil ~ vt: to put on or wear a veil

veiled \vāld adj (14c): 1: having or wearing a veil or a concealing cover (a ~ hat) 2: characterized by a softening tonal distortion 2: obscured as if by a veil: **DISGUISED** (~ threats)

veil-ing \vā-līŋ n (13c): 1: any of various light sheer fabrics 2: **VEIL**

vein \vān n [ME *veine*, fr. AF, fr. L *vena*] (14c): 1: a narrow water channel in rock or earth or in ice 2: (1) **LODE** 2: a bed of useful mineral matter c: **LODE** 3: **BLOOD VESSEL**; esp.: any of the tubular branching vessels that carry blood from the capillaries toward the heart 3: a: any of the vascular bundles forming the framework of a leaf b: any of the thickened cuticular ribs that serve to stiffen the wings of an insect 4: something suggesting veins (as in reticulation); *specif.*: a wavy variegation (as in marble) 5: a: a distinctive mode of expression: **STYLE** (stories in a romantic ~) b: a distinctive element or quality: **STRAIN** (introduced a welcome ~ of humor) c: a line of thought or action (renewed discussion along the same ~) 6: a special aptitude (inherited an artistic ~) b: a usu. transitory and casually attained mood c: top form (thou troublest me; I am not in the ~ — Shak.) — **vein-al** \vā-n-əl adj

vein v (1502): to pattern with or as if with veins

veined \vānd adj (ca. 1529): patterned with or as if with veins: having venation: **STREAKED** (a ~ leaf) (~ marble) (~ cheese)

vein-er \vā-nər n (1895): a small V gouge used in wood carving

vein-ing \vā-nīŋ n (1826): a pattern of veins: **VENATION**

vein-let \vān-lət n (1831): a small vein

veiny \vā-nē adj (1611): full of veins: noticeably veined (~ hands)

vel abbr **velocity**

ve-la-men \vō-lā-mən n, pl *ve-lam-ē-na* \vō-lā-mō-nā [NL, fr. L covering, fr. *velare* to cover, fr. *velum* curtain] (1882): the thick corky epidermis of aerial roots of an epiphytic orchid that absorbs water from the atmosphere

ve-lar \vō-lār adj [NL *velaris*, fr. *velum*] (1876): 1: formed with the back of the tongue touching or near the soft palate (the ~ *vel* of *Vel*/cool) 2: of, forming, or relating to a velum and esp. the soft palate — **velar** n

ve-lar-i-um \vō-lār-ē-um n, pl *ve-lā-ē-ō* [L. fr. *velum* curtain] (1834): an awning over an ancient Roman theater or amphitheater

ve-lar-i-za-tion \vō-lār-ē-zā-shən n (1915): 1: the quality or state of being velarized 2: an act or instance of velarizing

ve-lar-ize \vō-lār-ē-zē, -lēz, -lēz, -lēz v [to modify (as the *Vel* of *Vel*/cool) by a simultaneous velar articulation]

Vel-cro \vōl-(j)krō trademark — used for a closure consisting of a piece of fabric of small hooks that sticks to a corresponding fabric of small loops

veid or **veidt** \vōit, -vōit n [Afrik *veid*, fr. D, field; akin to OB *feld* field] (1835): a grassland esp. of southern Africa usu. with scattered shrubs or trees

ve-il-ger \vō-lā-jər, -vō- n [NL, fr. *velum* + *ger* bearing, fr. *gerere* to bear] (1877): a larval mollusk in the stage when it has developed the velum

vel-lei-ty \vō-lē-ō-tē, -vō- n, pl *vel-lei-ties* [NL *velletas*, fr. L *vello* to wish, wish — more at **WILL**] (1618): the lowest degree of volition 2: a slight wish or tendency: **INCLINATION**



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EXAMINER

TOOMER, CEPHIA D

ART UNIT PAPER NUMBER

1714

DATE MAILED: 07/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/084,602

Applicant(s)

JORDAN, FREDERICK L.

Examiner

Cephia D. Toomer

Art Unit

1714

—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

THE REPLY FILED 28 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 25-78.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Cephia D. Toomer
Primary Examiner
Art Unit: 1714

Continuation of 2. NOTE: the amendment is considered non-compliant because it fails to meet the requirements of 37 CFR 1.121, as amended on July 30, 2003. Claims 32, 34, 38, 49, 52, 59, 62, 66, 70 and 76 are listed as amended; however, there is no added or deleted subject matter. Also, the claim identifier should read -- currently amended --.

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